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Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 44 of the Convention

Combined third, fourth and fifth periodic reports of States parties due in 2012

Kenya*

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Preamble

1. Kenya is a State Party to the Convention on the Rights of the Child which it ratified on 30th July 1990.[1] This report is submitted in accordance with article 44 of the Convention which obligates the State Party to submit an initial report two years after ratification of the Convention, and periodic reports every five years thereafter. The State Party submitted its first and second reports in 1998 and 2004, respectively. The State Party welcomed the position of the United Nations Committee on the Rights of the Child (UNCRC) that its third periodic report be combined with the fourth and fifth periodic reports and be submitted by September 2012. The State Party considered the concluding observations of the Second report and responses to these remarks are included in this report.

I. Follow-up to the concluding remarks of the Committee

2. The State Party considered all the recommendations contained in the Committee's concluding observations on its initial and the second reports and addressed them as follows:

Cluster 1: General measures of implementation (arts. 4, 42 and 44)

Legislation

3. The State Party has considered the recommendations made by the UNCRC and taken specific actions to address the issues raised. Actions taken by the State Party include:

(a) Development of a National Children Policy (2008) which addresses matters concerning orphans and vulnerable children.

(b) Draft amendments to the Children Act 2001 to address the noted inconsistencies and weakness therein and further ensure it is in congruent with Article 53 of the Constitution of Kenya 2010.

Coordination and national plan of action

4. The State Party has had a National Plan of Action (NPA) for the period 2008–2012. Plans are underway to develop the next Plan of Action for 2013–2022.

5. The Ministry of Gender, Children and Social Development (MGC&SD) is the primary Ministry offering services to children in need of care and protection through the Department of Children's Services (DCS). The DCS coordinates and supervises services aimed at promoting and protecting the wellbeing of children and their families. The DCS works closely with development partners and non-State actors who complement the State Party programmes for the implementation of the goals set by the United Nations General Assembly in the "World Fit for Children" guidelines.

6. The National Council for Children's Services (NCCS) was established under Section 30 (1) of the Children Act[2] to exercise general supervision and control over planning, financing and coordination of child rights activities and to advise the State Party on all aspects relating to children.[3] The Council is composed of representatives from

[1] CRC/C/3/Add.62

[2] See CRC/C/KEN/2

[3] Kenya. Children Act, 2001

relevant Government ministries, NGOs, FBOs, and the private sector. The State Party has put in place mechanisms to ensure independent operation of the Council.

7. The functions of the NCCS are cascaded to the local levels through Area Advisory Councils (AACs) at district, division and location levels. The AACs have similar membership as NCCS. The operation of the AACs is guided by the principles of the best interests of the child, the right to protection, survival, participation and development.[4] The overall role of AACs is to co-ordinate children activities in their area of jurisdiction. To date there are 153 districts with AACs across the country. Plans are under way to ensure that AACs are part of the devolved government structure at the county level.

8. The State Party, through the NCCS, in its effort to strengthen co-ordination, has developed various regulations and guidelines. This includes the Child Participation Guidelines 2007, Charitable Children's Institutions (CCI) Regulations 2005, Adoption Regulations and Guidelines 2005, the Operationalization of the AAC's Guidelines 2006, Area Advisory Council Training and Resource Manual 2007, and the Framework for National Child Protection System, 2011.

Independent monitoring and independent human rights organizations

9. The Kenya National Commission on Human Rights (KNCHR) was established in 2003 to replace the Standing Committee on Human Rights. Under the Constitution of Kenya 2010, Article 59, KNCHR was replaced by Kenya National Human Right and Equality Commission (KNHR&EC). KNHR&EC is mandated to oversee the promotion and observance of human rights in the country and to promote equality and freedom from discrimination in accordance with Article 27 of the Constitution alongside other related mandates. There are currently 30 members of staff and 9 commissioners. The budget allocation has been increasing every year. For example in 2004, it was Ksh 50 million and in 2006/2007, it doubled to Ksh 107 million. The Commission has one commissioner in charge of children affairs.

10. The other commissions relevant to children rights are the National Gender and Equality Commission and the Commission on Administrative Justice. These commissions are mandated to act as watchdogs over the State role to protect and promote human rights.

Allocation of resources

11. The State Party has continued to increase budgetary allocation to the children services progressively over reporting the period from Ksh 501,529,674 to Ksh 3,910,401,109 between 2005/2006 and 2010/2011.

12. With technical assistance from UNICEF, the State Party has instituted "social budgeting", with a child's rights perspective on a pilot basis. This began in three districts in 2005, and had been extended to 10 districts by 2010.

13. The State Party notes that no measures have been taken on budget tracking from a child's rights perspective whether at the national level in the devolved government structures.

14. The "Cancel Debt for Children Campaign", spearheaded by civil society organizations, did not realize the intended results. Nevertheless a lot of awareness on Kenya domestic and external debts has been created.

[4] Kenya, NCCS, World Vision, Guidelines for the formation and operation of Area Advisory Councils.

15. The State Party has put in place legal regimes which protect and promote the rights of children from extreme forms of poverty. Some of these include Free Primary Education, Free Day Secondary Education, Constituency Development Fund (CDF), and Cash Transfer for Orphans and Vulnerable Children (CT-OVC).

16. Under Articles 4, 23, and 26 of the Convention, the State Party has made commitments to take measures in collaboration with international development partners to ensure the rights of children to survival, participation, protection and development are fulfilled. In this regard, the State Party has worked hand in hand with partners under the Kenya Joint Assistance Strategy 2007–2012 to contribute to the implementation of the Millennium Development Goal Number One – Eradicate Extreme Poverty and Hunger. The partners include the World Bank, USAID/APHIA II, DFID, and United Nations Agencies among others.

17. Kenya is committed to promoting gender equality and equal access to basic social services, such as education, nutrition, health care, reproductive health care, immunizations, and protection from diseases and to mainstreaming gender in all development policies and programmes.

Data collection

18. The State Party has made some progress in centralizing data collection and dissemination through platforms such as KENINFO[*] and the Kenya National Bureau of Statistics (KNBS). The KNBS coordinate National Statistical System to strengthen data management. Through this it is able to produce publications such as Violence Against Children Survey, Kenya Population and Housing Census, Kenya Demographic and Health Survey (KDHS), Persons with Disability Survey, Kenya Integrated Household Budget Survey, Kenya Aids Indicator Survey, Multiple Indicator Cluster Survey (MICS) and Labour Force survey.

19. The National Council for Children Services (NCCS) is developing a national children database with technical assistance from the International Labour Organization (ILO).

Cooperation with civil society

20. The NCCS, comprising State actors, NGOs, FBOs and the private sector, has as part of its mandate been monitoring the implementation of the State Party's regional and international obligations and facilitating the preparation of appropriate reports. The Council meets four times a year.

21. At the grassroots level, the AACs are established by NCCS. They have similar membership composition as at the national level and are charged with the responsibility of addressing the plight of children. The State Party, through the Ministry of Gender, Children and Social Development, has endeavoured to engage the civil society organizations, children and other stakeholders in the implementation of the Convention. In this regard a national steering committee, comprising the State and non-State actors, including NGOs, FBOs, was formed in 2003 to monitor implementation of the Convention.

[*] KENINFO is a development data system designed to enhance data storage and access by policy makers, development partners and research institutions, among other users. Similarly, while providing the State Party and stakeholders with reliable mechanisms to measure the efficiency and the effectiveness of public policies and service delivery and are part of the State Party commitment to improve transparency and accountability.

Dissemination and training

22. In 2008, a high-level workshop involving more than 200 key policy makers was held to disseminate the State Party's second report and the UNCRC's concluding remarks and observations. Thereafter, district forums to disseminate the State Party's second report and the concluding observations were held.

23. The State Party has continued to provide training on the Convention to teachers, judicial officers, AAC members, chiefs, children's officers, law enforcement personnel, school administrators, health personnel, psychologists, social workers, staff of childcare institutions, traditional or community leaders and children's services providers among others. This training has further been complimented by non-State actors who have disseminated the Convention widely, including translating it from English to Swahili. The State Party has further supported training and forums for children with special needs and translated the Children Act into Braille.

24. The Ministry of Education has also been implementing a child rights curriculum at preschool and primary school teacher training levels, and in the training curriculum of the Police officers in Kenya.

25. The State Party, in collaboration with non-State actors, has developed and disseminated child-friendly materials and documents relating to the Convention. These include the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and the Children Act 2001.

26. The State Party has also infused children's rights in the training of magistrates, judges and at the Faculty of Law of the university.

27. The hoteliers have been sensitized on commercial sex exploitation of children and sex tourism. Some hoteliers at the Kenyan coast have signed the "International Code of Conduct for the Protection of Children in Travel and Tourism Kenya". Other stakeholders who have signed this code of conduct include the Association of Hotels Keepers and Caterers, Kenya Tourism Federation, Coast Tourist Association, Kenya Tourism Board and the Association of Tour Operators.

Cluster 2: Definition of the child (art. 1 of the Convention)

28. The State Party wishes to state that the Constitution of Kenya and the Children Act 2001 have resolved the issue of legal age for marriage of girls and boys. The Constitution prohibits marriage of persons under the age of eighteen (18) years. In addition the Marriage Bill 2011 seeks to consolidate all marriage laws in Kenya to further remove any discriminatory provisions with respect to boys and girls.

Cluster 3: General principles (arts. 2, 3, 6 and 12 of the Convention)

29. The State Party has taken the following actions on the issues raised under general principles:

(a) The Constitution of Kenya, Article 53 (1) (e) assigns parental responsibility to both parents whether they are married or not. This provides for protection of children born out of wedlock;

(b) Article 56 specifically deals with minority and marginalized groups;

(c) Article 14 (1) states that a child born to a Kenyan citizen, whether or not the child is born in Kenya, shall acquire Kenyan citizenship as long as either the mother or father is a Kenyan citizen;

(d) Article 56 of the Constitution further provides that any unknown child found in Kenya who is or appears to be eight (8) years of age is presumed to be a citizen by birth;

(e) The Kenya Citizens and Foreign Nationals Management Service Bill 2011, further provides for a framework that protects the right to identity for all people;

(f) The National Gender and Equality Commission Act of 2011, emphasizes non-discrimination;

(g) Draft amendments to the Children Act seek to harmonize various legislation relevant to children rights and align them to the Constitution;

(h) The Prohibition of Female Genital Mutilation Act, 2011, protects the rights of the girl child against FGM.

30. The Constitution of Kenya (Art. 27) and the Children Act 2001 (Sect. 5) have outlawed discrimination of children on grounds of social economic status, birth, sex, religion, colour, race, tribe, disability among others. The constitution has therefore addressed issues raised in the World Conference Against Racism.

31. The Persons with Disabilities Act 2003, Section 5 outlaws discrimination of children on any grounds including disability. The Act also provides that no child with a disability shall be denied the right to education as provided for in the Children Act 2001, and the Convention.

32. The State Party established the HIV and AIDS Tribunal in 2011. The Tribunal is authorized to hear and determine complaints or appeals arising from any breach of the HIV and AIDS Prevention Act 2006 excluding criminal jurisdiction. The Tribunal has powers to address fundamental human rights abuses resulting from an individual's HIV status and come up with remedies to redress the injustices. It also has the power to award damages in respect of any proven financial loss or impairment of dignity, pain or emotional and psychological suffering as a result of discrimination.

33. In addition, the National Cohesion and Integration Act, 2008 provides for the establishment of the National Cohesion and Integration Commission with the mandate to facilitate and promote equality of opportunity, harmony and peaceful coexistence between persons of different ethnic and racial backgrounds in Kenya and to advice the State Party thereof.

34. The State Party acknowledges that several civil society organizations with the support of development partners are undertaking awareness campaigns against all forms of discrimination against children and women.

Best interests of the child

35. The principle of the best interests of the child has been enshrined in the Constitution and the State Party will continue to adhere to the principle of the best interests of the child in all situations.

Respect for the views of the child

36. The State Party through the Department of Children's Services (DCS) and various Area Advisory Councils had facilitated participation of children in development of policies at the sub-national and national levels. In this regard, the DCS has established Children Assemblies in all counties (47) while Children Voices platforms managed by Civil Society

Organizations are annually held at regional level. Respect for the views of children has improved since the last reporting period. Children are allowed to give their views during judicial proceedings, in schools, and in the community forums. Child Rights Clubs and Student Councils in Secondary schools have also been established in many areas.

37. The State Party through NCCS has formed a Child Participation Committee at the national level, printed more than 22,000 copies of the National Child Participation Guidelines. These have been disseminated to stakeholders in the children sector and to children for their own use. Child friendly school guidelines have been distributed to schools through Ministry of Education.

Cluster 4: Civil rights and freedoms (arts. 7, 8, 13–17, 19 and 37(a) of the Convention)

Birth registration

38. The State Party through the Department of Civil Registration has taken the following actions to improve birth registration of all children:

(a) Increased the number of civil registration offices from 69 in 2005 to 112 by the end of 2011;

(b) The Births and Deaths Registration Act is under review to align it with the Constitution.

39. There has been substantial increase in actual registration of birth of children between 2005 and 2010 rising from 541,664 to 749,693.[7] This is a result of intensive campaigns undertaken by the State Party and the policy to make it mandatory for all children to acquire a birth certificate before sitting for national examinations at the end of primary school and secondary school cycles.

Torture or other cruel, inhuman or degrading treatment or punishment

40. The State Party has instituted comprehensive reforms in the Police Service under the on-going police service reforms. The term "police force" has been changed to "police service" to reflect the new thinking. The National Police Service Act 2011(Art. 95 (1)), among other things, provides that no person shall be subjected to torture or other cruel and degrading treatment. In Article 10 (1), paragraph (o), the Act provides for an independent complaints mechanism where one feels aggrieved by the force.

41. The State Party has established a toll-free hotline to police stations (999/112), a toll-free child help line (116) for children in distress and children's/gender desks in all police stations, including Child Protection Units (CPUs), in 14 police stations to serve children in need of protection.

42. From 2008 to 2011 the State Party initiated and piloted a legal aid and awareness programme for child victims of abuse and children in need of care and protection. From the lessons learnt, a National Legal Aid Bill and Policy have been prepared and are at an expert review level.

Corporal punishment

43. The National Children's Policy (NCP) 2008, Section 53 (1) prohibits corporal punishment for children. It has been outlawed in schools through Legal Notice No. 56 of

[7] Statistical Annex, Table 10.

2001 issued by the Ministry of Education (MOE). In addition, Article 29 (e) and (f) of the Constitution of Kenya prohibits corporal punishment, cruel, inhuman and degrading treatment. Furthermore, there are proposals to amend Section 18 of the Children Act 2001 to prohibit the administration of unreasonable punishment at home and in institutions that provide alternative care for children as well as to align it with the provisions in the NCP, 2008.

44. The State Party launched the Framework for the National Child Protection System for Kenya, established the National Child Protection Committee to look into ways of eradicating corporal punishment, and in partnership with non-State actors, has facilitated intensive awareness campaigns on corporal punishment.

Cluster 5: Family environment and alternative care (arts. 5, 18 (paras. 1 and 2), 9–11, 19–21, 25, 27 (para. 4) and 39 of the Convention)

Family support

45. The State Party has endeavoured to support children in their family setting and under alternative care such as foster care or adaption. It has ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

46. The State Party increased the number of Children's Officers from 432 in 2003 to 581 in 2010 and opened offices in 154 out of 288 districts. Those offices and other non-State actors offer parenting education.

47. On maternity and paternity leave, the State Party wishes to state that the Employment Act 2007[7] has provided for enhanced maternity leave for women in Kenya for up to three months, plus annual leave and paternity leave for two weeks.

Alternative care

48. The State Party has developed a Policy on Social Protection which has provisions for vulnerable populations, including children. The policy focus areas include:

(a) Reduction of extreme poverty;

(b) Provision of cash transfers for those who cannot support themselves;

(c) Emphasis on long-term and predictable interventions for the poor and excluded groups;

(d) Incorporation of asset creation and support for the vulnerable groups.

49. The State Party has management guidelines and regulations for Charitable Children's Institutions (CCI), as well as a training manual and best practice standards for CCIs. The State Party is also taking steps to amend the Foster Care rules (Section 153 of the Children Act) to ensure that they are understood clearly.

50. The State Party is aware of the need to harmonize provisions dealing with adoption and the fourth schedule of the Children Act and will report on progress in its next periodic report to the UNCRC.

51. The Judiciary has established within its structures of the High Court, a specialized "Family Division" to handle diverse family's issues, including property inheritance rights of orphans and widows.

[7] Kenya, Employment Act, 2007, sect. 29 – Maternity leave

52. The State Party has scaled up the Cash Transfer to OVC from 3,000 households in 13 districts in 2005/06 to cover 124,991 households in 28 districts by 2010/11.[5] The State Party has provided training to chiefs, police officers and local leaders on children rights, the Constitution, and the protection of rights of properties that belong to orphans. It has improved alternative care services, including information sharing with all actors in the child rights sector. By 2010, the State Party had trained 4,704 professionals on children rights.

53. The CCI regulations contain provisions for setting up an independent complaint mechanism for children in institutions.

Adoption

54. The State Party has developed and implemented the adoption regulations, which are currently under review to be in line with the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. It has established a vibrant National Adoption Committee and a Secretariat to oversee alternative family care placements. The State Party also wishes to acknowledge the technical assistance offered by the Hague Secretariat in 2007 and 2011.

Abuse and neglect, ill-treatment and violence

55. The State Party has established offices in 154 out of 288 districts where Children's Officers and AACs are actively handling child protection matters. It has also set up a number of institutional mechanisms designed to ensure that children who interact with the justice system are protected accordingly. These include:

(a) Children Courts;

(b) Child Protection Units at Police Stations;

(c) Progressive gazettement of children's magistrates;

(d) A child helpline number 116, established to enhance quick responses to children in distress and in need of assistance;

(e) Call centres in Eldoret, Garissa and Nairobi with 64 trained professionals and volunteers;

(f) Community services for child offenders and children in conflict with the law;

(g) Community police services to enhance quick responses to children in distress as result of abuse or neglect;

(h) Appointment of women police officers to respond to cases relating to physical, emotional and sexual abuse of girls.

Cluster 6: Basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26 and 27 (paras. 1–3) of the Convention)

Children with disabilities

56. The State Party launched the Special Needs Education policy framework on 11th March 2010. This has led to increased enrolment of children with disabilities into primary or integrated units, from 255,650 in 2007 to 272,911 in 2008.[6]

[5] Statistical Annex: Table 15

[6] Statistical Annex: Table 61

57. The State Party has established 345 sub-district disability assessment centres and 52 district-based Educational Assessment and Resource Services (EARS). In addition, there are guidelines for early identification and referral for children with disabilities and special needs. In essence, these services have been taken close to the communities. However, the number of children taken for assessment and placed in education programs is still small compared to those whose parents have not taken advantage of these facilities. This is partly attributed to ignorance and apathy by parents.

58. The National School Health Policy 2009 has addressed the physical environment in schools, sports and leisure facilities. The State Party also offers training at Kenya Institute for Special Education (KISE) for teachers who are eventually posted to both primary and secondary schools to teach children with special needs.

59. The State Party together with CSOs and National Council for Persons with Disability have regular awareness programmes for children with disabilities to reduce stigmatization, and at the same time encourage parents to seek medical and education services for their children. The awareness campaign has contributed to increased enrolment of children with special needs in primary, secondary and vocational training centres.

60. The National Council for Persons with Disability (NCPWD) has published, The Persons with Disability Act 2003 in simple readable language including Braille and circulated it widely in Kenya.

61. On programmatic interventions, the State Party launched a Cash Transfer Program in 2010 to assist households with disabled persons and children. This programme is still on pilot basis and will be scaled up progressively.

Health and health services

(a) Increase funding to the health sector

62. Government allocation increased from Ksh 28.93 billion in 2005/06 to Ksh 47.93 billion in 2009/2010.

(b) Reduce infant mortality

63. Within this reporting period, full immunization of children aged 12–23 months increased from 57 per cent to 77 per cent (2003–2008/09) while immunization against measles for children aged 12–23 months rose from 73 per cent to 85 per cent during the same period.

64. In 2011 the State Party also added pneumococcal vaccine to the national immunization schedule. In the reporting period the State Party has distributed over 13.5 million insecticide treated mosquito nets and continues to provide the same at MCH clinics to pregnant women and infants in high risk districts. Other measures to address malaria are indoor residual spraying and use of Artemisinin Combination Therapies.

(c) Reduce distances to health facilities

65. There has been a significant increase of primary health care facilities under the strategic plan for rationalization of health care services in level 3 and 4. To this effect, the number of health facilities increased from 4,912 to 7,111 between 2005 and 2010.[10] Rift Valley province recorded the highest number of health facilities at 1,867 in 2010 while North Eastern had the lowest number at 264 during the same year

[10] Statistical Annex, Table 37

66. The State Party wishes to state that the provision of health services is a major concern and hence it has established the health policy framework which supports and encourages other health providers to set up health facilities in underserved communities and especially in rural and remote areas including urban informal settlements areas. Under the Economic Stimulus Programme funds has been allocated for construction of a Health Centre in 200 Constituencies. This was accompanied with constituency based yearly hiring of Health workers. The State Party also works in partnership with FBOs, NGOs and private health providers as indicated in statistical data in the annex.[11]

(d) Nutrition status of children under five years of age

67. It is policy for children 6–59 months to receive Vitamin A every month.

68. Exclusive breastfeeding rates have also increased from 13 per cent in 2003 to 32 per cent in 2008/09.

(e) Safe clean drinking water and sanitation

69. Safe clean drinking water is no doubt a fundamental human right. In this regard the State Party increased access to clean water sources from 74 per cent to 91 per cent in urban areas and 32 per cent to 54 per cent in rural areas between 2003 and 2008/09 (KDHS 2003 and 2008/09 Report).

(f) Sanitation

70. Sanitation improved from 95 per cent to 99 per cent in urban areas and from 79 per cent to 84 per cent in rural households between 2003 and 2008/09.[12] This is underscored by the constitutional provision in Kenya which states in section 43 (1) (b) that "every person has the right to accessible and adequate housing and to reasonable standards of sanitation."

Adolescent health

71. The KNBS which is the main State Party Institution that collects and collates statistical data in its Demographic and Health Survey 2008/09 incorporated issues concerning adolescent health, teenage pregnancy and ability to access services. This information has provided an avenue for planning for the adolescent health programmes and policies.

72. The State Party through the Ministry of Education has designated teachers who offer counselling in schools to prevent unwanted pregnancies. Reproductive health (Sex Education) is taught in primary and secondary schools as part of Social Studies and Ethics.

73. The State Party has through the Ministry of Education issued a circular that allows teenage mothers to go back to school. This circular although a way forward to ensuring that rights of adolescent mothers are respected, has been undermined by the stigmatization of young mothers which deters them from returning to school. The State Party however has made all necessary efforts to ensure that girls who are victims of unwanted pregnancies are not stigmatized nor denied re-entry opportunity by school administrators.

HIV/AIDS

74. The State Party developed the National HIV/AIDS Strategic plan (2009/10 to 2012/13) which has a PMCTC component and the National Guidelines on Prevention of

[11] Statistical Annex, Table 38.
[12] KDHS 2003 and 2008/09.

Mother to Child Transmission. Between 2003 and 2007 the proportion of women attending Antenatal Care (ANC) who got tested for HIV increased from 45 per cent to 70 per cent.[13] PMTCT services are free in government facilities. The Ministry of Health has also adapted WHO guidelines on infant and young child feeding in the context of HIV, promotes breastfeeding with use of Anti-Retroviral Therapy (ARVs) to protect infants, and early infant diagnosis. During this reporting period children accessing ART treatment increased from 1,500 in 2005 to 36,000 in 2010 and 48,000 in 2011.

75. The State Party is committed to scale up its financial budget in order to meet the Abuja commitment as well as increase pediatric services to children infected by HIV and AIDS.

76. Several non-state actors, National Aids Control Council, Ministry of Public Health and Sanitation and Ministry of Education have continued to undertake awareness programmes on adolescent reproductive health to reduce incidences of sexual harassment, teenage pregnancies and sexual violence, and stigmatization related to HIV and Aids including prevention of HIV.

77. The State Party has developed the National Programme Guidelines on orphans and other children made vulnerable by HIV and AIDS. In addition HIV and AIDS information has been included in primary teacher training curriculum and the school syllabus.

78. The Cash Transfer programme for Orphans and Vulnerable Children resources increased from Ksh 48 million to Ksh 816 million between 2006 and 2010.[14]

79. The National AIDS Control Act 2006 prohibits discrimination against people living with HIV and AIDS.

80. Pregnant women and children under the age of five years are entitled to free medical services including access to ARVs in public health facilities. This is further subsidized by faith based institutions and other institutions specializing in providing health services to people living with HIV and AIDS.

Harmful traditional practices

81. The Prohibition of Female Genital Mutilation Act, 2011 provides new opportunities for eradication of FGM. The Act empowers chiefs and Children's Officers to enter into places without warrant to ascertain whether such a crime has been or is about to be committed. The Act criminalizes:

(a) Aiding and abetting the circumcision of women and girls and procuring of a person to perform the cut;

(b) Taking a Kenyan to another country for, and bringing another person to Kenya for, female circumcision;

(c) Allowing premises for which one is responsible to be used for female circumcision;

(d) Being found in possession of tools or equipment for female cutting;

(e) Knowing that someone has the intention of performing the cut and failing to report to the authorities;

[13] KAIS 2007

[14] Statistical Annex, Table 87

81. Any Kenya citizen who undergoes FGM outside the country is also liable for prosecution.

82. Beside this Act, the National School Health Policy (2009) addresses issues relating to FGM and early forced marriages.

83. The State Party through the Ministry of Gender, Children and Social Development has conducted public awareness forums as well as facilitated community dialogue on FGM in five pilot districts where the practice is rampant. Additionally the ministry has conducted training for district gender and social development committee members on gender based violence and other harmful cultural practices. UN Agencies, development partners, FBOs and NGOs have supported advocacy campaigns against FGM among 33 tribes which practice this culture. Through these campaign initiatives, the practice is slowly lessening. However, it must be noted that deep rooted cultural practices take long time to eradicate.

84. The State Party through the National Council for Children's Services in 2010 undertook a study on child marriage in two communities where the practice is prevalent. The findings will inform future planning of programmes and interventions.

Standard of living

85. The social protection policy has been developed and applied in 60 districts already participating in Cash Transfer. The Social Protection Programmes for OVC are implemented through the Ministry of Gender, Children and Social Development. The Programme now serves 134,000 households[15] as of 2010 across the country.

86. Through the devolved fund, such as CDF, LASDAP, LATF and the private sector such as Banks, poor and bright children have received bursaries for their secondary education.

87. The State Party has established the Youth Enterprise Development Fund as a vehicle to enhance youth social economic empowerment.

88. The State Party designated Ksh 15 billion for the "Kazi Kwa Vijana" (jobs for youth) programme to create three hundred thousand (300,000) jobs for the youth in urban and rural communities. This initiative is aimed at addressing goal number one of the MDG to eradicate extreme poverty and hence improve the status of vulnerable children.

Cluster 7: Education, leisure and cultural activities (art. 28, 29 and 31 of the Convention)

89. The State Party has been providing the Free Day Secondary Education (FDSE) in public schools since 2008. The objective of this programme is to increase access to secondary education with the Constitutional Framework of 12 years of basic education for every child. In addition, the State Party has introduced mobile schools in arid and semi-arid areas in Kenya.

90. The budget expenditures in the education sectors have increased since 2005. In 2005/2006 the total budget expenditures was Ksh 11,580.9 billion this increased to Ksh 33,549.3 million in 2010/2011.

91. The State Party has banned extra coaching by teachers to reduce indirect cost to parents. This notwithstanding, parent's willingness to pay for extra coaching fees defeats the implementation of this policy.

[15] Statistical Annex Table 15

92. The Ministry of Education has included ECDE in the overall learning curriculum and national education policy. It developed a national ECDE policy framework and service standards guidelines in the 2005/2006 financial year.

93. ECDE is currently provided by the State Party in partnership with Non-governmental Organizations (NGOs), Community Based Organizations (CBOs), Faith Based Organizations (FBOs), Parents and the private sector.

Cluster 8: Special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)–(d), 32–36 of the Convention)

Refugee children

94. The Refugee Act was passed in 2006 and regulations to facilitate its implementation enacted in February 2009. This Act is being repealed under the Refugee draft Bill 2011 to align to international human rights treaties, the international refugee instruments and the Constitution of Kenya.

95. The State Party, through the Department of Refugees' Affairs and the Ministry of Immigration and the Registration of Persons, in collaboration with UNHCR, keeps records of refugees and asylum seekers at all points of entry into the country.

96. Comprehensive disaggregated data on asylum seekers and refugees is kept by the Department of Refugees' Affairs, under the Ministry of Immigration and the Registration of Persons and UNHCR. In 2010, Kenya hosted 157,454 refugee children and 61,232 child asylum seekers.[16]

97. In order to ensure protection of the rights of unaccompanied refugees and asylum-seeking children, the State Party has special registration mechanisms for children whereby any child who enters the country unaccompanied is registered and issued with individual documentation within the shortest time, but not longer than 3 months.

98. The State Party, UNHCR and other organizations continue to raise funds through various partners to assist refugee children residing in Kenya and has provided land to expand Dadaab camp (Ifo 2) as part of its contribution of resources for refugees in Kenya. In partnership with UNHCR and other development partners, has established educational facilities in the two main refugee camps (Kakuma and Dadaab) aimed at ensuring that refugee children access and continue receiving quality education as their basic right. Furthermore, a Memorandum of Understanding (MOU) between the State Party and UNHCR has been signed to ensure that there is a systematic and organized capacity-building programme for magistrates and judges on International Refugee Law and the Convention on the Rights of the Child. This training includes the requirement to expeditiously attend to issues concerning the violation of children's rights. The State Party has also deployed Children's Officers and Probation Officers in the camps to attend to cases involving refugee children.

Economic exploitation

99. The Employment Act No. 11 of 2007[17] prohibits the worst forms of child labour and defines a child as any person who has not attained the age of eighteen years. It further provides that no person shall employ a child who has not attained the age of thirteen years, whether gainfully or otherwise, in any form of labour. In addition, the Children's Act

[16] Statistical Annex, Table 67.

[17] Employment Act 2007, sects. 53 and 56.

(2001) contains provisions for the protection of children subjected to the worst forms of child labour.

100. The Kenya Integrated Household Budget Survey of 2005 derived significant information on child labour in Kenya and this has facilitated the establishment of programmes to remove and protect children from the worst forms of child labour. This survey has aided the State Party to develop a National Action Plan on Prevention of Child labour (2004–2015).

101. The State Party, through the Steering Committee on Child Labour, is working with ILO to develop a national children's database.

Street children

102. The State Party conducted a baseline survey on street children in 2010 to establish the root causes of children living and working on the street (both push and pull factors). This survey is helping the State Party address the underlying causes of this phenomenon.

103. The State Party has also established a Street Family Rehabilitation Trust Fund (SFRTF), which seeks to rehabilitate children working and living on the streets. Through this initiative the children are given special protection, education, health care and psychosocial support. In addition to this, there are other Non-State actors working with street children family in reintegration programmes in major towns and cities. Between 2005 and 2010 the number of street children assisted was 8,820 while the number of children reintegrated with families during the same period being 800.

104. The State Party, in collaboration with UNICEF, has established and operationalized Child Protection Centres (CPCs) in Mombasa, Eldoret, Malindi and Garissa, and it is in the process of establishing additional CPCs in Nairobi, Nakuru, Kakamega and Siaya, where street children and other vulnerable children can access services such as health care, shelter, nutrition, education and vocational training.

105. The local authorities have been raising awareness on street children, including the establishment of specific programmes addressing needs and rights of street children. In this respect, vocational training centres for street children have been established in Meru, Isiolo, Machakos, Nyeri, Mombasa, Eldoret and Nairobi.

Sexual exploitation and trafficking

106. The National Plan of Action for Children 2008–2012 has addressed issues emanating from the World Congress against Commercial Sexual Exploitation of Children. The State Party however admits that issues relating to commercial sexual exploitation are interlinked to poverty, ignorance of parents and complications related to tracking perpetuators of child trafficking beyond the Kenyan borders.

107. The State Party has introduced a Code of Conduct for teachers, which ensures that stringent measures are in place to protect children against sexual exploitation.

108. The State Party has signed a MOU with neighbouring countries on combating trafficking in persons across borders.

Commercial sexual exploitation of children

109. The State Party, through its Penal Code, criminalizes the sale of children, child prostitution and child pornography. Furthermore, the Sexual Offences Act 2006 criminalizes sexual exploitation of children.

110. The State Party has also enacted the Counter-Trafficking in Persons Act, 2010, which provides for the prevention and suppression of trafficking in persons as well as punishment for trafficking of persons, especially women and children.

111. The State Party works closely with INTERPOL to support investigations into acts of child sex tourism perpetrated by foreigners in Kenya.

112. In 2006, a study was undertaken by the State Party and UNICEF on the extent and effect of child sex tourism on the Kenyan coast. As follow up on the study, by end of August 2009, about 20 hotels and tour companies had signed the International Code of Conduct targeting elimination of sexual exploitation of children in the tourism industry. Secondly, the Ministry of Tourism, MGC&SD, Ministry of Labour, and UNICEF are in the process of domesticating this international code of conduct into a national code of conduct targeting domestic tourism in all major towns in Kenya.

113. On child pornography the Communications Commission of Kenya (CCK) is mandated under the Kenya Communications Act of 1998 and subsequent amendments to regulate media activities. The Commission is responsible for providing broadcasting licenses and frequency spectrum. The Communications Act under section 20 also provides for the protection of children. It states that "a licensee shall ensure due care is exercised in order to avoid content that may disturb or be harmful to children, that has offensive language, explicit sexual or violent material, music with sexually explicit lyrics or lyrics which depict violence, request for permission to conduct interview with a minor from the minor's parents or guardian before conducting an interview with a minor". The Act further provides for setting of watershed times when certain programmes can be aired on National television stations.

Administration of juvenile justice

114. In accordance with the Children Act, Section 73, the State Party has established children-specific courts, known as Children's Courts, in Nairobi, Mombasa, and Kakamega. Where there are no specific children courts, the Judiciary has gazetted magistrates to deal with matters concerning children.

115. The State Party, in collaboration with Japanese International Cooperation Agency (JICA), has provided comprehensive training to 130 officers drawn from police services, Children's department Children's Court, Prisons and Probation department on a wide range of issues affecting children in the juvenile justice system, including the Convention of the Rights of the Child and in particular article 37, 39 and 40 on the administration of juvenile justice.

116. The Constitution of Kenya and Children Act, 2001 in Section 190, prohibits the death penalty for children.

117. The State Party has put in place a programme for "special needs offenders", in which children in conflict with the law are included.

118. The State Party is in the process of piloting, a web-based National Children's Database, which includes data on children in conflict with the law and other vulnerable children.

119. Through the office of the Police Commissioner, data is collected on all cases of persons in conflict with the law, including children. This data is published annually by KNBS in the Economic Survey and is used in policy formulation, including programme design for children and persons in conflict with the law.

120. The State Party has set up Child Protection Units at fourteen (14) police stations for care of children in need of protection. Where there are no protection units, children in need of protection are referred to different sections of remand homes.

121. The State Party and other partners operate diversion programmes for children in conflict with the law under the juvenile justice system. It has also put in place a corrections policy that encourages non-custodial sentences for children.

122. The State Party, through the National Legal Aid Programme under the Ministry of Justice, Constitutional Affairs and National Cohesion, is piloting the provision of legal aid to children in two projects in Nairobi and Nakuru. In addition there are three other pilot legal aid projects which also serve children in Kisumu, Eldoret and Nairobi.

123. Street children are not automatically treated as children in conflict in the law. Rather, street children are children in need of protection to benefit from rescue centres and CCI's for care, protection and rehabilitation.

124. All children placed in statutory rehabilitation institutions are provided with education, vocational training, psychosocial support and upon discharge they are integrated and resettled back into their communities.

Minority and indigenous children

125. The Constitution of Kenya, in Article 63, recognizes community land, which includes ancestral lands and lands traditionally occupied by hunter-gatherer communities. Schedule five of the Constitution further states that specific laws to protect such land shall be enacted within five years of the Constitution which came into force in 2010.

126. The Constitution recognizes the principle of affirmative action for vulnerable groups as provided under Article 27. Under Article 56, it has created an enabling environment for recognition and protection of the rights of indigenous and marginalized populations. Specific mention is made of the right to reasonable access to water, health services and infrastructure.

127. The State Party has also introduced a quota system that provides special places in national schools for children from minority and indigenous communities, as well as mobile schools for children in pastoralist communities.

128. The State Party, in 2007 created the Ministry of Development of Northern Kenya and other Arid Lands, which is mandated to support development and to address the specific problems experienced by pastoralist communities.

129. The State Party has scaled-up the provision of cash transfers for orphans and vulnerable children in all areas, including children from pastoralist communities.

Optional Protocols to the Convention on the Rights of the Child

130. The Constitution of Kenya 2010 states in article 2 (6) any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution. The State Party is in the process of legislating convention and treaty ratification bill. The final report on this process will be included in the 6th periodic report. We anticipate that the Optional Protocol on the sale of children, child prostitution and child pornography will come into force under this bill.

131. The State Party ratified the Optional Protocol on children in armed conflict on 28th January 2002. In this regard, it has put in place initiatives to protect children in areas prone to cattle rustling, militia activities in volatile borders, such as the Kenya/Somalia, Kenya/Sudan and Kenya/Ethiopia. Some of these initiatives include increasing security, disarmament programmes in cattle rustling areas, and peace and reconciliation initiatives.

II. Comprehensive national programme monitoring

A. Legal and policy framework

132. The Constitution of Kenya 2010 as the Supreme Law provides ample legal ground to review a host of national legislations to make them congruent to the Convention on Rights of the Child.

133. Legal instruments which were enacted during this reporting period and not mentioned elsewhere in this report are:

(a) The Witness Protection Act enacted in 2008, and amended in 2010, offers protection to persons who are witnesses of crime;

(b) The Kenya Citizens and Foreign Nationals Management Service Act 2011that deals with matters relating to registration of births, citizenship and immigration;

(c) The National Gender and Equality Commission Act 2011 which has provisions on gender and equality;

(d) Education Act 2012.

134. Other policies enacted are:

(a) The Education Sector Policy on HIV/AIDS;

(b) The National Early Childhood Development Policy Framework (2006) and its Guidelines;

(c) The Gender Policy in Education (2007);

(d) Policy for Alternative Provision of Basic Education and Training (2009);[18]

(e) National School Health Policy (2009) and its Guidelines;

(f) Policy on Nomadic Education (2009);

(g) The National Special Needs Education Policy Framework (2009).

B. Programme monitoring

1. HIV and AIDS

135. There has been a decline in both new infections and prevalence rate from a peak of 6.0 per cent in 2006 and 5.1 per cent in 2007. Nyanza continues to have the highest prevalence at 14.9 per cent and North Eastern province the least (0.8 per cent). The age category 25–49 has the highest prevalence (9.8 per cent) followed by 50–64 years (5.9 per cent) and 15–24 years being the lowest (3.8 per cent).[19]

2. Parental guidance, responsibility, recovery and maintenance (arts. 5 and 18, paras. 1 and 2)

136. The Constitution bestows parental responsibility to both parents whether in marriage or out of marriage. In this regard the Department of Children's Services handled many

[18] The Policy for Alternative Provision of Basic Education and Training (2009) captures non-formal education.

[19] Kenya AIDS Indicator Survey, 2007.

cases relating to parental responsibility during this reporting period. A general trend noted from the statistics provided by the Department of Children's Services between 2005 and 2010 showed that the cases of neglect involved fathers. This trend was exacerbated by the loop hole in the Children Act 2001 regarding conditions for acquiring parental responsibility by fathers who are not married to the children's mother. The Act made it optional for fathers of children born out of wedlock to acquire parental responsibility.

3. Separation from parents (art. 9)

137. Incidences of parental negligence of their children rose from 21,496 to 49,057[20] between 2000 and 2010. Most of these cases resulted in court orders for removal of the child from the lawful parents as the last resort and placed in CCI or government rescue centres as alternative care institutions.

138. There were no cases of children separated as a result of exile or deportation of parents. Separation of children due to imprisonment of the mother only affected children older than four years who are not permitted to accompany their mothers to prisons. A total of 1,583 children were separated due to imprisonment of the mother.

4. Family reunification (art. 10)

139. The 2007/08 Post Election Violence (PEV) led to 8,165 children being separated from their families. Through the collaborative programme with CSOs a total of 6,165 children were reunited with their families as at December 2010 and will continue to reunite and resettle the remaining lot.

140. The State Party hosts many refugee children and child asylum seekers who occasionally arrive in Kenya as unaccompanied minors; in partnership with UNHCR and development partners. The State Party has further seconded Children's Officers in the camps to assist in reunification of children.

5. Adoption (art. 21)

141. Provisions for Adoption are under Part 12 of the Children Act 2001, Section 155 (1) and the 2005 adoption regulations. These regulations are in line with the Hague Convention and are used by the courts in all matters concerning adoption.

6. Protection from abuse and neglect, including physical and psychological recovery and social reintegration (arts. 19 and 39)

142. The State Party registered CCIs increased from 302 to 646.[21] Population of children in CCIs stood at 40,545 in 2010.[22]

143. Children Rescue Centres are established under Part 5, Section 48 of the Children Act 2001 care for children in need of special protection as per article 38 of the Convention. During this reporting period, the State Party increased rescue centres from three to four. They housed 3,511 children as at December 2011

7. Health and health services (art. 24)

144. The State Party has developed the National Health Sector Strategic Plan11 (2005–2010) and implementation of Annual Operation Plans (AOP), the Child Survival and

[20] Statistical Annex. Table 18

[21] Statistical Annex. Table 20

[22] Statistical Annex. Table 22

Development Strategy (2008-2015) which identified the priority interventions/actions to address child health problems and the Human Resource for Health Strategic Plan. The two ministries responsible for health (Medical Services and Public Health and Sanitation) are engaging the Ministry of Finance on how to implement this Plan in a scheduled manner due to the financial implications.

145. The State Party is implementing the Community Health Strategy (CHS) to ensure that communities and individuals take charge of their own health. The strategy incorporates the Community Integrated Management of Childhood Illness (IMCI), home and community based health care. The ministry has community level health workers addressing the health needs of specific households.

146. The State Party has further exempted children under five years from payment of user fee under the State Party policy on cost-sharing. In addition, it has exempted pregnant women from paying for antenatal care, family planning and delivery at levels 2 and 3 facilities.

147. Development of the Reproductive Health Policy and a road map to accelerate maternal and new born care has also helped in providing health services to children.

148. The State Party has decentralized health services within the country. This has seen capital investment in constituency based health care provision such as construction of model health centres in each constituency and employment of 20 nurses per constituency among others. There has also been continued training of human resource (both pre-service and in-service) to meet the demand for both the public and the private sectors.

149. Improved immunization coverage as well as preventive and curative health care services for diseases closely related to child and infant mortality such as diarrhea and acute respiratory infections has been scaled up.

150. This has seen the State Party develop disease specific strategic plans for diseases such as HIV and AIDS, Tuberculosis, and Malaria.

8. Adolescent health (art. 24)

151. In 2006 the State Party launched the Adolescent Reproductive Health and Development Policy to cater for the needs of adolescents. This is vital as many adolescents die of reproductive health related complications yet there are no adequate services to address their plight. A few health facilities now have youth friendly services and will continue to encourage more health providers to establish youth friendly service centres.

9. Health and sanitation (art. 24)

152. The State Party has placed a lot of emphasis on environmental health and sanitation as exemplified by its creation of the Ministry of Public Health and Sanitation and development of Health Sector Policies including guidelines to support improved Sanitation and Hygiene. These include:

- National School Health Policy
- Guidelines for implementation of Environmental Sanitation and Hygiene Policy;
- Food Safety Policy.

10. Standards of living (art. 27)

153. The indicators for improved standards of living and good health is access to improved sanitation, access to safe water and good housing, disposable income and education. In this regard the State Party has embarked on the following initiatives:

(a) The Kenya Slum Upgrading Programme (KENSUP);

(b) Giving incentives to encourage developers to construct low cost housing;

(c) Initiated a Housing Bill to provide legal basis for regulation, coordination, guidance, monitoring and evaluation of housing and human settlement including a building code to regulate planning and construction.

11. Right of the child to education (art. 28)

154. The State Party is committed to meeting the World Declaration on Education for All (EFA) Jomtien, Thailand (1990) goals and the Millennium Development Goal two (MDG 2) Achieving Universal Primary Education by 2015. The detailed national education targets are stipulated in Kenya Vision 2030, the Medium Term Plan (2008 to 2012) and the Kenya Education Sector Support Programme (KESSP) (2005 to 2009 -2010). This includes increasing primary net enrolment and completion rates to 100 per cent by 2015; improving internal efficiency in education by reducing repetition, drop-out rates, and increasing primary to secondary transition levels. To address inequalities in access, the Nomadic Education Policy and its budgeted implementation plan was put in place to enhance provision of learning opportunities for children in Arid and Semi-Arid Lands (ASAL).

155. Non Formal Education is also among the 23 Investment Programs under KESSP. The program seeks to increase access to quality basic education for children and youth who due to special circumstances are unable to attend formal schools.

156. The State Party has developed a program on Technical Industrial Vocational and Entrepreneurship Training (TIVET).This is one of the Investment Programs under the KESSP. The objective of this program is "to reduce inequity in society through increased training opportunities for the female students, the disabled learners, and learners from poor households".[27] The enrolment in TIVET increased by 32.1 per cent between 2008 and 2010.

157. The Ministry of Education and other key line ministries in partnership with development partners and Civil Society Organizations have instituted measures to ensure that vulnerable children and children in need of care and protection access quality basic education. These measures include, introduction of low cost boarding schools that target children from ASAL regions, mobile schools that target children of pastoral communities and School Feeding Programs.

158. The School Feeding Program under the School Health, Nutrition and Feeding Investment Program of the KESSP supported by the World Food Program and the MOE feed 661,209 children in 32 districts in the Northern part of Kenya and the Coast Province. It also targets some schools in the informal settlements of Nairobi. MOE Home Grown School Feeding Programme (HGSFP) also supports 659,249 children in 58 semi-arid districts. The State Party further expands the school feeding programmes during times of extensive drought to provide a cushion in the high risk areas and reduce school drop outs. The expanded school feeding program is supported by the Ministry of Special Programmes in partnership with MOE.

[27] Kenya. Ministry of Education. National Action Plan on Education for All (2003-2015), p. 79

159. The State Party has set aside Ksh 300 million for purchase of sanitary towels in the 2011/2012 financial year. In addition to ensuring access, retention and participation of girls in education, the State Party zero-rated the taxes on sanitary towels to make them cheaper and affordable.

160. To fulfill the obligation of protecting the rights of children affected by conflict in their countries of origin and seeking refuge in Kenya, the State Party in partnership with non-state actors has established educational facilities in the 2 main refugee camps (Kakuma and Dadaab).

161. In 2007, the Ministry of Education established a grant program to support the OVCs in 3,215 primary schools. The Ministry had spent by 2010, Ksh 65.8 million. This grant has further been complemented by other initiatives such as PEPFAR Scholarship Funds, Cash Transfer Funds for OVCs, LATF and the Constituency Development Funds for Scholarship.

162. The State Party in partnership with non-state actors has developed a Peace Education Curriculum which is aimed at fostering peaceful co-existence, national unity, patriotism and nurturing children as agents of peace.

163. The State Party has also established programmes in cattle rustling/militia prone areas and volatile borders such as the Kenya-Somalia, Sudan and Ethiopia aimed at ensuring children access quality education and their rights protected. Some of these initiatives include increasing security in the areas, disarmament programs in all the cattle rustling areas, peace and reconciliation dialogues among fighting groups.

164. The recent Post Election Violence (PEV) that was experienced in the country had a negative impact on the education sector. However measures to mitigate the calamity were put in place to ensure that children affected by PEV continued to access education. Some of these measures included establishing temporary schools within the IDP Camps and later integrating the children into schools near the IDP camps.

165. The State Party has worked in partnership with non-state actors, in areas such as Mt. Elgon region in conflict transformation and peace building initiatives targeting the local community as well as strengthening of the education sector, these efforts are also being replicated in other regions that are prone to conflict.

12. Leisure, recreation and cultural activities (art. 31)

166. The State Party is committed to promoting Leisure, Recreation and Cultural Activities. In this regard it has banned holiday tuition as part of its effort to ensure children rest and engage in leisure activities. Through the Local Authorities, there are by-laws that require all neighbourhoods and suburbs to set aside designated areas and space for children and the public to use for leisure, recreation, and cultural activities. In addition the State Party has mainstreamed leisure and cultural activities in the Basic Education Curriculum.

167. The State Party supports co-curricular activities such as Young Farmers Club, Peer Clubs, Child Rights Clubs, Debating Clubs, Boy Scout and Girl Guides clubs, Health Clubs, Disaster Prevention Clubs, and First Aid Clubs, Peace clubs among many others.

168. The Ministry of Sports and Youth Affairs have developed sports Programs targeting children in and out of schools from a young age such as the Ligi Ndogo and Athletic Programs with an aim of coaching them into professional sports men and women.

13. Refugee children (art. 22)

169. The State Party wishes to state that the refugee population in Kenya has been fluctuating by nationality as a result of a number of factors, which include:

(a) Cessation of hostilities in Southern Sudan resulting in reduced inflows of new arrivals;

(b) Repatriation to Uganda, Rwanda, Burundi, Ethiopia, Mozambique has decongested the camp;

(c) Resettlement in third countries as per the principle of burden sharing;

(d) Increased hostility in Somalia has seen unprecedented new arrivals in Kenya.

170. In 2010 the refugee children population in Kenya was 218,686 including asylum-seeking children.[74] Reflected in the nationality population of refugees' trends, Somali children account for 81 per cent of all refugee children in the country while children account for 50.4 per cent of the refugee camp population.

171. The State Party, through the Department of Refugee Affairs, and UNHCR are involved in joint planning (Common Strategic Plan) in which children are identified as a vulnerable group in need of special care and protection. In pursuant of the best interest of the child, the State Party has taken an active role in the refugee camps through the Department of Children's Services in the last four years. It has a designated an officer to sits on the Best Interest Determination Panel.

172. The State Party has put in place a family tracing mechanism programme for separated and unaccompanied minors, though the success rate is very low. This is due to existing hostilities in areas where tracing could be possibly instituted.

173. The State Party, through the Department of Children's Services admits refugee children to Kenyan statutory institutions whenever they are in need of care and protection.

14. Child labour (art. 32)

174. The State Party has participated in the Community Based Innovations to Reduce Child Labour through Education (CIRCLE) global project, which is funded by USAID.

175. The State Party, in partnership with ILO/IPEC, implemented programmes on the elimination of child labour, especially its worst forms. Between 2005 and 2009, the Time Bound Programme (TBP) on the elimination of the worst forms of child labour was implemented.

15. Cash transfer for orphans and vulnerable children (OVC)

176. The programme for Cash Transfers for Orphans and Vulnerable Children (OVC) started on a pilot basis targeting 500 OVC households receiving Ksh 500 per month. Currently 124,991 households are benefiting at Ksh 2,000 per month. The allocation for OVC increased from Ksh 169.7 million to Ksh 827.7 million between 2005/06 and 2009/10. Direct cash disbursement increased from Ksh 150 million to Ksh 766.9 million during the same period.[75]

16. Drug abuse (art. 33)

177. The State Party in 2007 established the National Campaign Against Drug Abuse Authority (NACADAA) to replace NACADA with a reinforced mandate to coordinate a multi-sectorial effort aimed at preventing, controlling and mitigating the menace of drugs and substance abuse within Kenya. Under NACADAA, a toll free number was established

[74] Statistical Annex, Table 67.
[75] Statistical Annex, Table 92.

to assist victims of drug and substance abuse. The toll free number provides children with a forum where they can access information, guidance and counselling on substance abuse. Children have also an option of using the Child Helpline 116 to seek assistance.

17. Sale, trafficking and abduction of children (art. 35)

178. The Constitution of Kenya contains sufficient provisions to deal with impunity issues related to child trafficking and in this regard it has established a National Steering Committee to handle matters relating to Human Trafficking.

179. The State Party adopted Adoption Regulations in 2005 to regulate the national and international adoption and counter illegal adoption and child trafficking.

180. On data collection, the State Party, through the Ministry of Gender, Children and Social Development, has begun collecting information on trafficking cases from the police, media, foreign governments and UNODC.

18. Children deprived of liberty (art. 37)

181. The State Party has established rehabilitation schools under Part V, Section 47 of the Children Act 2001, to rehabilitate children in conflict with the law. The State Party currently has nine rehabilitation schools. It has developed guidelines to enhance rehabilitation programmes in the statutory institutions.

III. Key highlights on statistical data

182. The State Party's commitment to invest in social services to improve the welfare of its population has been consistent in the past years. The number of educational institutions increased from 63,487 units to 74,408 units between 2005 and 2010. There was marginal rise in the total number of pre-primary institutions from 32,043 units to 38,523 units during the same period. This translates to an increase of 6,480 units. There was an increase of 33.4 per cent in enrolment of pupils in pre-primary education in 2010.[36] Between 2005 and 2008, Rift Valley province recorded the highest enrolments rates while North Eastern recorded the lowest enrolment rates.

183. Between 2005 and 2010 the enrolment increased from 7,591,500 to 9,381,200 an increase of 23.6 per cent.[37] Secondary enrolment rates increased from 934,149 to 1,701,501.[38]

184. The number of health institutions increased from 4,912 to 7,111 between 2005 and 2010 an increase of 44.8 per cent. Rift Valley province recorded the highest number of health institutions while North Eastern had the lowest number of health institutions.[39]

185. In 2009 and 2010 children deaths due to illness decreased by 4.2 per cent from 46,360 to 44,398 respectively.

186. The three major causes of death of children include diarrhoea, malaria and pneumonia. Children deaths as a result of traffic or other accidents accounted for 2 per cent of deaths during the reporting period.[40]

[36] Statistical Annex, Table 63
[37] Statistical Annex, Table 51
[38] Statistical Annex, Table 57
[39] Statistical Annex, Table 37
[40] Statistical Annex, Table 5

187. There has been an increase in birth registration of children from 541,664 to 749, 693 between 2005 and 2010. These figures include late registration that accounts for 37,283 plus refugees and asylum seeking children. Rift Valley province recorded the highest birth registration (162,524) for the year 2010 followed by Western (122,409), Eastern (108,325) and Nyanza (107,072).[31]

188. A total of 6,552 males and 6,237 female refugee children were registered at birth in the year 2010 while 3,003 female and 3,155 male refugee and asylum seeking children were registered after six months.[32]

189. Regarding children accessing information, the State Party notes that there is an increment in the number of libraries accessible to children from 36 to 56 during this reporting period. The number of mobile libraries decreased from 8 mobile buses to 4 in 2010 due to high cost of repairs and maintenance. The period under review is marked by an increase of 2,581, 469 library users who include refugees, children with disabilities, girls and boys accessing information in libraries.

190. The total number of OVC who were supported between 2005 and 2010 is 1,059,305 and household families assisted were 302,658 between 2005/06 to 2010/11. There has been an improvement in infant mortality rates and under-five mortality rates from 77/1000 to 52/1000 and 115/1000 to 74/1000, respectively between 2003 and 2008[33] and decrease in the number of children infected by HIV and AIDS from 244,767 to 229,953 between 2005 and 2010. The number of children who received assistance including medical treatment, counselling, care and support increased from 10,500 to 437,469 between 2005 and 2010.

191. The number of children on ART increased from 1,500 to 36,000 in 2010, and 48,000 in 2011.The number of children living with relatives/foster care guidance increased from 10,500 to 437,469. Generally there has been a decrease in the number of orphans as a result of HIV and AIDS from 1,153,650 to 1,106,331.[34]

192. There has been an increase in the number of health institutions from 4,912 to 7,111 between 2005 and 2010. Rift Valley had the highest increase in the number of institutions (1,867) compared to other province while North Eastern province recorded the least at 264.[35]

193. In regard to vaccination coverage, the proportion of children aged 12–23 months who were fully immunized increased from 57 per cent to 77 per cent between 2003 and 2008/09 while the proportion of children who have never received any of the recommended vaccinations reduced from 7.4 per cent to 3.2 per cent during the same period. The country has also seen the proportion of children who are immunized against measles rise from 72 per cent to 85 per cent between 2003 and 2008/2009. Central province (86. per cent) recorded the highest proportion of children fully vaccinated followed by Rift Valley province (85 per cent) while Nyanza and North Eastern provinces recorded the lowest proportion of 65 per cent and 48. per cent respectively.[36] The full immunization coverage rate in the period 2005 to 2010, for children under one year increased from 57 per cent in 2003 to 71 per cent in 2008/09, with the high coverage rates being registered in North

[31] Statistical Annex, Table 10.
[32] Statistical Annex, Table 10.
[33] Statistical Annex, Table 33.
[34] Statistical Annex, Table 34.
[35] Statistical Annex, Table 37.
[36] Statistical Annex, Table 40.

Eastern (89 per cent), and Central (86 per cent), provinces while Eastern and Rift Valley provinces recorded the lowest rates of 64 per cent.[37]

194. The ECDE enrolment rose from 1,643,644 million to 2,193,071 million between 2005 and 2010[38] while the gross enrolment rose from 57.9 per cent to 60.2 per cent between 2005 and 2008. The number of Public ECDE centres increased from 32,043 to 38,523 during the same period.[39] The State Party notes that the number of teachers increased significantly by 18.8 per cent from 78, 230 in 2008 to 92,955 in 2009 with the number of trained ECDE teachers increasing from 50,973 to 73,012 between 2005 and 2010.[40]

195. Since the introduction of FPE in 2003, there has been a significant increase in enrolment from 7,591,500 to 9,381,200 during the same period.[41] The enrolment of boys was more by 1,047,900[42] compared to the enrolment of girls during the reporting period. Across all the eight (8) provinces enrolment has been on upward trend across both the genders since 2005 to date. However disparities still exist in the ASAL, which the State Party is addressing through the Policy on Nomadic Education (2009). This policy, seeks to facilitate increased resources to marginalized areas.

196. Transition of students from primary to secondary education has significantly improved from 57.3 per cent in 2005 to 72.5 per cent[43] currently. There has been a low transition among girls to high schools compared to boys. However, the year 2008 and 2009 recorded high transition for girls. Since the introduction of Free Day Secondary Education in Public Secondary School the enrolment has increased from 1,180,267 in 2007 to 1,701,501 in 2010.[44] The State Party is taking measures to improve girl child secondary education in particular performance of girls in Science, Mathematics and Technology (SMT) through provision of grants for construction of laboratories and supply of equipment to girls' schools.[45] This is part of a direct implementation of the Gender Policy in Education (2007) which seeks to ensure that girls receive equal opportunities with boys.

197. The State Party has increased the number of secondary schools to ensure equitable access by many children. From 2002 the number of schools increased from 3,667 to 6,566 in 2008.

198. The enrolment in TIVET has risen from 70,512 students in 2005 to 82,842 in 2010.The National Polytechnics' enrolment decreased from 20,248 in 2005 to 15,967 in 2010 as a result of some of the national polytechnics being made universities. The enrolment in Youth Polytechnics increased from 22,887 in 2005 to 33,104 in 2010.[46]

199. There has been an increase of Special Needs Education Institutions from 1,209 in 2003 to 1,461 in 2008.[47] Most of these institutions are integrated into the normal primary schools. Enrolment of children with special needs at various levels has increased from 255,650 in 2007 to 272,911 in 2008.[48] The grants towards this program increased from Ksh 96 million in 2003 to currently Ksh 420 million. The Government is working towards

[37] Statistical Annex, Table 41
[38] Statistical Annex, Table 46
[39] Statistical Annex, Table 63
[40] Statistical Annex, Table 50
[41] Statistical Annex, Table 51
[42] Statistical Annex, Table 51
[43] Statistical Annex, Table 54
[44] Statistical Annex, Table 57
[45] Kenya, Ministry of Education, Gender Policy in Education 2007
[46] Statistical Annex, Table 60
[47] Statistical Annex, Table 64
[48] Statistical Annex, Table 61

increasing budget allocation towards the development of infrastructure for Special Needs Education.

200. The enrolment in Non-Formal Education increased from 105,675 in 2005 to 169,591 pupils in 2010.[49] Non-Formal Education institutions are of 2 types, non-formal schools that offer primary education curriculum and non-formal centres that use NFE curriculum.[50]

201. In 2010 the State Party implemented an employment policy of contract teachers which led to 13,960 being deployed in primary schools, with each of the constituencies in the country recruiting 60 trained primary school teachers. Generally there was an increase in teachers from 171,033 in 2005 to 184, 873 in 2010 a percentage increase of 8.1 per cent. Majority of the teachers had P1 qualification constituting 52.7 per cent followed by approved teachers at 25 per cent.[51]

202. In the secondary schools the number of teachers increased from 47,435 in 2005 to 53,047 in 2010 which represents an increase of 11.8 per cent. Contract teachers in 2010 were 4,200. Graduate teachers represent majority of the teachers in secondary schools representing 84.4 per cent which is seconded by the approved graduate teachers at 14.4 per cent.[52] There was a decrease in the number of approved and S1 Diploma teachers due to the encouragement of teachers to pursue higher education and get promotion by the Teachers Services Commission.

203. The State Party wishes to state that detailed statistical data is appended for further reference.

IV. Factors and difficulties

A. Child poverty

204. Poverty risks are high among children between the ages of 0–14 years (averaging about 16 per cent) and among adolescents aged 15–24 years (averaging about 12 per cent) in contrast to other age categories. Children of the poor living in Arid, Semi-Arid and urban informal settlements are most affected. Other factors which contribute to poverty are unemployment, alcoholism, irresponsible parenting, increasing population growth, drought, famine, impact of HIV/AIDS, natural recurrent calamities and global economic meltdowns. This observation confirms that, children are not only vulnerable to poverty, but also validates the fact that poverty tends to affect children more than any other age group.

B. Resource allocation

205. There is inequitable balance between Recurrent and Development budget and this often fuels poverty, social deprivations, and spatial disparities and perpetuate the vulnerability of both boys and girls and women in Kenya. The State Party has faced a challenge in tracking resources allocated for children rights and welfare visa-a-visa the benefits derived by the child.

[49] Statistical Annex, Table 59.
[50] Kenya, Ministry of Education 2009, Education Facts and Figures 2002–2008, p. 13.
[51] Statistical Annex, Table 58.
[52] Statistical Annex, Table 58.

206. Although there has been substantial increase in the budget of the Department of Children's Services and NCCS, this increase does not match the overwhelming services required for children in need of special protection.

C. Public debt

207. Public debt continues to be a major hindrance to government's efforts to implement pro-poor development programmes as a significant proportion of the budget is allocated to servicing public debt. Over the period 2005–2010, the total public debt increased from Ksh 789,076 to Ksh 1,229,406.

D. Enforcement of legal and policy instruments

208. Although the State Party has good legal and policy provisions for protection of children, the enforcement of these laws and policies is hampered by attitudes, cultural practices and ignorance.

E. Enforcement of civil rights and freedom

209. Ignorance of the public, social-cultural and religious inhibitions, long distances to birth registration centres, and apathy regarding statutory requirements continue to negate the State Party efforts to have all children births and deaths registered.

210. The State Party does not have adequate mechanisms to prevent and protect children from accessing harmful information through the internet.

211. Informal "adoptions" and "foster care" at the community level is a common practice. The lack of documentation for these informal arrangements makes it impossible to monitor them, thereby making the children vulnerable to abuse and exploitation.

F. Access to delivery and post-natal care services

212. Women with low levels of literacy and those living below the poverty line of one dollar per day often do not seek services of skilled birth attendants. Most mothers who deliver at home do not attend postnatal care clinics. This is partly due to long distance to health facilities, and lack of information on the importance of early postnatal care for treatment of complications arising from delivery.

213. There is still poor health seeking behaviour and inadequate early recognition of danger signs in pregnancy. This is due to lack of information as well as lethargy on the part of communities. These are further aggravated by retrogressive cultural beliefs and practices.

G. Children with disabilities

214. Early detection of disability is still a challenge as most parents seek help as the last resort. This coupled with household poverty, low literacy rate among women, lack of information; cultural beliefs about causes of disability leave some children with disabilities unattended.

H. HIV and AIDS

215. There are limited pediatric HIV diagnostic facilities and most HIV-infected children, are diagnosed very late in the course of illness, or not at all. Yet, for the most part, HIV infection in children is preventable.

I. Access to education

216. The State Party has done a lot with regard to provision of primary education. There has been increases in the enrolment rates across all levels during the reporting period but retention and transition rates of girls has remained low compared to boys. This is contributed by a number of factors such as harmful cultural practices, preference given to boys to go to school, poverty and early pregnancies.

217. Although the government provides free primary and day secondary education, schools still charge levy fee for other services posing a hindrance to the participation of girls and boys particularly those from poor households. Children from Western province said "Although the government says that it (primary education) is free, in our school we pay money for games, examinations, development, to buy desks etc. it is not compulsory since many children are not going to school and nothing is done" Children in North Rift said "We pay for exam fee, P.T.A fee, Electricity money, remedial money, and development money."

218. Although the number of street children is growing by day the state party has no system of monitoring the day to day entry of children into street life and how best to stop it.

V. Way forward

219. The State Party is committed to eradication of extreme poverty under Goal one of the MDGs. Special attention will be given to eradication of extreme child poverty through expanded social protection programmes and rationalization of national social protection policy.

220. The State Party through the Ministry of Planning, National Development and Vision 2030 launched the Social Budgeting Guidelines in June 2010 to better link national and sub national planning and budgeting with community needs and priorities. This model of social budgeting will continue to be reviewed in order to accommodate the new structure of governance and address all social sectors with specific attention to vulnerable groups such as children, the elderly and the disabled.

221. The State Party will develop and implement a National Monitoring and Evaluation Framework under the auspices of the NCCS. It is also expected that the National Children Database will streamline monitoring and evaluation of children's programmes in the Country. This will enable the State Party to critically review and assess performance and impact of various programmes and interventions.

222. The State Party will continue to strengthen KNCHR&EC to adequately monitor and protect the human rights of all citizens including children.

223. The State Party and Non State actors will continue to raise awareness on the impact of retrogressive cultural practices on children and in particular the girl child and ensure such cultural practices are eventually eradicated.

224. The State Party will continue to nurture and strengthen all Children Assemblies in the country and promote their expansion in every school and mainstream the principle of Best Interests of the child in Government Ministries and Counties

225. With the expanded programmes on birth registration including awareness through schools and public meetings, the State Party hopes to reduce apathy, and discourage negative attitudes toward birth and death registration. It will also expand the use of mobile birth registration facilities to take the services in communities which are hard to reach and especially in the arid and semi-arid areas and informal settlements in Kenya.

226. The State Party through the Ministry of Information and Communications will develop Policy Regulations targeting children, parents, caregivers and cyber café operators to prevent and control access of harmful information through the internet.

227. The State Party will put in place measures to strengthen the family support systems to cater for children in need of care and protection including those separated from their parents, deprived of family environment and in need of psychosocial support.

228. The State Party is bound by the Constitution Article 43 (1) which guarantees every person, the right to the highest attainable standards of health. This includes health care services. This is further reinforced by Article 53 (1) (c) which specifically guarantees children the right to basic nutrition, shelter and health care. All future interventions as regards this cluster will continuously make reference to the Constitution.

229. The State Party will continue to support basic education in general and in particular increase the number of teachers in every school in order to comply with the MOE regulations on ratio of pupils to teachers (40:1). More funds will be invested in infrastructure development to decongest overcrowded facilities at primary school level and improve the learning environment for children. Emphasis will be placed on improvement of infrastructure in Special Needs and Early Childhood Education.

230. The State Party will pay special attention to Counties with low enrolment, retention and transition rates. This will include development of a special strategy to increase hardship allowance to attract and retain qualified teachers in arid and semi-arid areas, develop effective mechanisms that will attract deployment of female teachers to ASAL area, expansion of mobile schools, and reduction of conflict related occurrences including improved food security in arid and semi-arid areas and informal settlements. The State Party shall continue to support the construction of low cost boarding schools in ASAL regions as outlined in the Alternative Provision of Basic Education and Training Policy (2009).

231. The State Party will continue to implement Counter Trafficking in Persons Act 2010, which provides for prevention, suppression and punishment of trafficking in persons, especially women and children.

232. The State Party will expedite the legislation on ratification of treaties and convections as provided in Article 2 (6) of the Constitution. This will make ratified treaties and conventions part law of Kenya.

233. The State Party will make all efforts necessary to increase its budget allocation to the Department of Children's Services and the National Council for Children's Services, in order to expand and increase services to children in all 47 counties.

234. The State Party will endeavour to develop a comprehensive strategy to address the street children phenomena.

235. The State Party will continue to expand support to vulnerable families through cash transfer and other social welfare programmes.

Annexes

Annex 1

[English only]

List of acronyms

AAC	Area Advisory Council
AIDS	Acquired Immune Deficiency
ANC	Antenatal Care
AOP	Annual Operation Plan
APHIA II	Aids Population Health Integrated Assistance II
ARV	Antiretroviral Medicine
ASAL	Arid and Semi-Arid Land
BCG	Bacillus Calmette-Guérin (or Bacille Calmette- Guérin, BCG) is a vaccine against tuberculosis given infants
CBOs	Community Based Organizations
CCI	Charitable Children's Institution
CCK	Communications Commission of Kenya
CDF	Constituency Development Fund
CHS	Community Health Strategy
CIRCLE	Community Based Innovations to Reduce Child Labour through Education
CPU	Child Protection Units
CRC	Convention on the Right of the Child
CSO	Civil Society Organizations
CT-OVC	Cash Transfer to Orphans and Vulnerable Children
DCS	Department of Children's Services
DFID	Department of International Development
DNO	Data Not Obtainable
DPT-DPT	refers to a class of combination vaccines Against three infectious diseases in humans: diphtheria, pertussis (whooping cough) and tetanus.
EARS	Educational Assessment and Resource Services
ECDE	Early Childhood Development Education
ECPAT	End Child Prostitution/Pornography
EFA	Education for All
EMIS	Education Management Information System

EU	European Union
FBOs	Faith Based Organizations
FDSE	Free Day Secondary Education
FGM	Female Genital Mutilation
FPE	Free Primary Education
GDP	Gross Domestic Product
GOK	Government of Kenya
HIV	Human immunodeficiency virus
HGSFP	Home Grown School Feeding Programme
IDPs	Internally Displaced Persons
IMCI	Integrated Management of Childhood Illness
ILO	International Labour Organization
ILO/IPEC	International labour Organization International Programme to End Child Labour
INTERPOL	International Criminal Police Organization
JICA	Japanese International Cooperation Assistance
KENSUP	Kenya Slum Upgrading Programme
KESSP	Kenya Education Support Programme
KDHS	Kenya Demographic and Health Survey
KFCB	Kenya Film Classification Board
KISE	Kenya Institute for Special Education
KNBS	Kenya National Bureau of Statistics
KNCHR	Kenya National Commission on Human Rights
KNHR&EC	Kenya National Human Right and Equality Commission
Ksh	Kenya Shillings
LASDAP	Local Authority Service Delivery Action Plan
LATF	Local Authority Transfer Fund
MDG	Millennium Development Goal
MGC&SD	Ministry of Gender, Children and Social Development
MICS	Multiple Indicator Cluster Survey
MOE	Ministry of Education
MOM's	Ministry of Medical Services
MOU	Memorandum of Understanding
N/A	Not Applicable
NACADA	National Agency for the Campaign Against Drug Abuse
NACADAA	National Campaign Against Drug Abuse Authority

NCCS	National Council for Children Services
NCP	National Children Policy
NCPWD	National Council for Persons with Disability
NGO's	Non-Governmental Organization
NPA	National Plan of Action
OVC	Orphans and Vulnerable Children
PEV	Post Election Violence
PMTCT	Prevention of Mother to Child Transmission
SERTF	Street Families Rehabilitation Trust Fund
SMT	Science, Mathematics and Technology
TBP	Time Bound Programme
TIVET	Technical Industrial Vocational and Entrepreneurship
TSC	Teachers Service Commission
UNCRC	United Nation Committee on the Rights of the Child
UNODC	United Nations Office on Drugs and Crime
UNHCR	United Nation High Commission for Refugees
UNICEF	United Nations Children's Fund
UN	United Nations
USAID	United States Agency for International Development
WHO	World Health Organization

Annex 2

[English only]

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